

## Is There an Local Improvement District (LID) in Your Agency's Future?

**LIDs as a Funding Source**



Infrastructure Assistance  
Coordinating Council  
Conference  
October 22-24 2013

Session 13

## PRESENTER



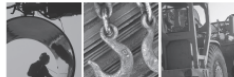
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## Local and Road Improvement Districts Manual



for Washington State  
Sixth Edition



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Revised Second and Third Editions  
Washington State Chapter for the American Public Works Association

## Agenda

- ▶ What is an LID?
- ▶ Are LIDs only about money?
- ▶ LIDs and economic development.
- ▶ LIDs and developer mitigation.
- ▶ LIDs and infrastructure improvements
- ▶ How can my agency use LIDs/ULIDs to help fund a utility or road project?
- ▶ Are LIDs/ULIDs complicated and do they require a cast of thousands?
- ▶ LIDs, A to Z.

## What is a Local Improvement District?

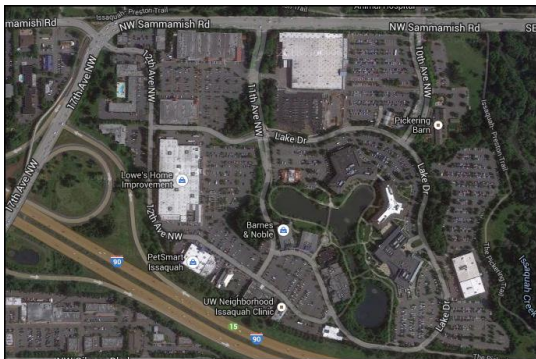
- ▶ Local Improvement Districts (LIDs) are a means of assisting benefiting properties in financing needed capital improvements.
- ▶ LIDs permit improvements to be financed and paid for over a period of time through assessments on the benefiting properties.
- ▶ LIDs can be used to provide local match for grants and loans in lieu of agency general funds for projects that provide both general and specific benefit.

## Are LIDs only about money?

- ▶ LIDs are a statutorily driven infrastructure financing process overlain onto a tangible construction project.
- ▶ Constructing infrastructure improvements under LID processes lead, ultimately, to:
  - sale of bonds to investors;
  - retirement of those bonds via annual assessments on the property owners within a district.
- ▶ For this reason, strict adherence to statutory procedures is needed to "keep the bond counsel happy".

LIDs and Economic Development

- ▶ LIDs can be a catalyst for economic growth, allowing private development firms and industries to obtain long-term financing for on-site public infrastructure at relatively lower interest rates.
- ▶ LIDs, particularly those used to match grants from federal and state agencies, can be used to finance essential agency or regional off-site improvements at relatively lower interest rates.
- ▶ Provision of on and off-site infrastructure improvements through LIDs can play a key role in securing large industrial plant startups or relocations.



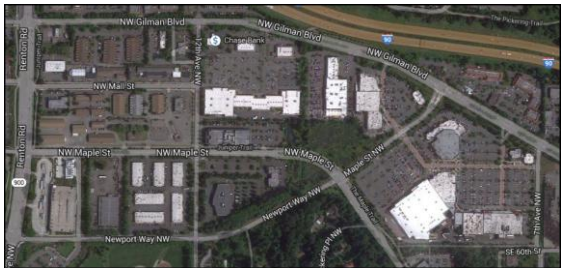
City of Issaquah LID #20

| City of Issaquah - SE 56 <sup>th</sup> Street Project - 1996 |              |                                  |              |
|--------------------------------------------------------------|--------------|----------------------------------|--------------|
| Costs by Project Component                                   |              | Revenues by Project Component    |              |
| SE 56th Street Roadway and Bridge Improvements               | \$14,190,913 | LID #20 - General Assessment     | \$5,180,216  |
|                                                              |              | TIA Grant                        | \$4,513,000  |
|                                                              |              | FHWA Grant                       | \$3,287,120  |
|                                                              |              | King County                      | \$420,107    |
|                                                              |              | R-O-W. Sale (Animal Hospital)    | \$350,000    |
|                                                              |              | R-O-W. Sale (Tovah)              | \$232,318    |
|                                                              |              | Reimbursements                   | \$42,739     |
| 12th Avenue NW                                               | \$317,466    | Other                            | \$165,413    |
| City Water C.I.P.                                            | \$148,294    | LID #20 - 12th Avenue Assessment | \$317,466    |
| SPWSD Sewer Main                                             | \$126,374    | City Water C.I.P.                | \$148,294    |
|                                                              |              | SPWSD                            | \$126,374    |
| Totals                                                       | \$14,783,047 | Totals                           | \$14,783,047 |

LIDs and Developer Mitigation

- ▶ Off-site infrastructure improvements for private developments of any scale can be accomplished very readily through LIDs.
- ▶ Developers appreciate the chance to spread their costs out over a longer term at a relatively lower rate of interest.
- ▶ Developers also appreciate the opportunity to spread off-site improvement costs to adjoining property owners who are similarly benefited.
- ▶ The flip side of this is that LID projects cost more to administer and require contracts to be designed and awarded by the agency, with prevailing wages and other public works contract requirements to be met.

City of Issaquah LID #21



City of Issaquah - Newport /Maple Street LID - 1995

| Costs by Project Component |             | Revenues by Project Component |             |
|----------------------------|-------------|-------------------------------|-------------|
| Newport/Maple Street       | \$6,287,805 | L.I.D. #21- Newport/Maple     | \$2,398,943 |
|                            |             | T.I.A. - Grant                | \$3,804,610 |
|                            |             | Utility Co. Reimburse.        | \$13,247    |
|                            |             | Other Revenue                 | \$71,004    |
| 12th Avenue NW             | \$515,005   | L.I.D. #21 -12th Avenue       | \$515,005   |
| Rowley Water Main          | \$110,366   | L.I.D. #21 - Rowley           | \$110,366   |
| Trammell Crow Water Main   | \$80,483    | L.I.D. #21 - Trammel          | \$80,483    |
| Total Costs                | \$6,993,659 | Total Revenues                | \$6,993,658 |

LIDs and Infrastructure Improvements

- ▶ LIDs are very well-suited for filling in gaps in a city's existing infrastructure:
  - older plats where the full array of today's required improvements does not exist.
  - sewer and water main extensions for health and sanitation purposes.
  - paving gravel streets or alleys to reduce dust and maintenance costs.
  - undergrounding or relocating utilities.
  - providing street lights.
- ▶ LIDs provide a means for whole neighborhoods to improve their quality of life, with long-term financing and relatively lower interest rates.
- ▶ City of Tacoma and other cities allocate funds each year to match LID money for neighborhood projects.

Tacoma's LID program

- What is the history of LIDs in Tacoma?
  - Tacoma's first LID was created in 1895.  
section of Pacific Avenue, consisting of fir blocks set on a concrete foundation.
  - Tacoma's largest LID provided for sanitary sewers mains in the tideflats
  - Tacoma was one of first cities to successfully create underground wire LIDs
  - Tacoma has provided income-based financial assistance to property owners since 1983
  - For 110 years, LIDs have improved Tacoma's infrastructure (and continue to do so)

Residential Street Paving



Residential Alley Paving



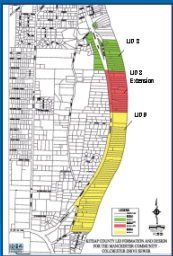
Streetlighting



Kitsap County

Overview

- ▶ Community of Manchester
- ▶ South end of Urban Growth Boundary
- ▶ Over 9,000 ft. of gravity and low pressure sewer lines
- ▶ 119 residential lots, most of which are along the shores of Puget Sound
- ▶ Process began in summer of 2004
- ▶ Working with members of the Manchester Community Council



RH2

**Kitsap County**

**Local Improvement District 8**

- Adjacent to southern end of existing sewers in Manchester
- First project all gravity sewer with beach side properties using grinder pumps to connect
- Southern limits set at top of the hill on Colchester
- First project constructed in fall of 2006
- Extension added as property owners did not want to wait for LID9
- Extension is a low pressure sewer line with all connections coming from grinder pumps
- Extension constructed in fall of 2007



**City of Bainbridge Island  
South Island Sewer Project**



**City of Bainbridge Island  
South Island Sewer Project**

***“Using One LID to Finance Four  
Neighborhoods and the Blakely  
Elementary School”***

Municipal Research and Services Center  
Washington Chapter American Public Works Association

Local Improvement District &  
Road Improvement District Workshop

Kennewick, Washington  
October 20, 2009

Presented by:  
Gary Bourne, PE – BHC Consultants, LLC

LID & RID Workshop

**Important Points to Follow Today**

- ❑ How to use RCW 35.43.050 to levy different LID assessments in separated neighborhoods
- ❑ How to use PWTF loan to reduce assessments
- ❑ How to use the Public Works Roster to work on private property
- ❑ How to use LID to cash out Developer Extension Contract
- ❑ When to use preliminary Special Benefit Analysis to test other methods of assessment

**How can my agency use LIDS/ULIDs  
to help fund a project?**

- An agency-wide ULID could form part of a financing package for large scale capital projects such as sewer/water main extensions or replacements that benefit all residents in the service area.
- The assessment places a lien on the property that must be paid in full upon sale of the property.
- ULID participants have the option of paying their assessment immediately upon receipt, thereby reducing the portion of the costs financed by bonds.

**How can my agency use LIDS/ULIDs  
to help fund a project?**

- Advantages of LID/ULID financing, as opposed to other types of road funding and/or utility rate financing to the property owner include:
  - The ability to avoid interest costs by early payment of assessments.
  - If the LID/ULID assessment is paid in installments, it may be eligible to be deducted from federal income taxes.
  - Low-income senior citizens may be able to defer assessment payments until the property is sold.
  - Community Block Grant funds may be available to property owners with incomes near or below poverty level to reduce assessments.

### How can my agency use LIDs/ULIDs to help fund a utility project?

- ▶ A major disadvantage to LIDs/ULIDs is that it may be politically difficult to approve formation.
  - The LID/ULID process may be stopped if owners of 60 (city) or 40 (WSD) percent of the property area within the LID/ULID boundary protest its formation.
- ▶ There are significant legal and administrative costs associated with the LID/ULID process, which can increase total project costs by 10-25 percent.
- ▶ Projects under an LID are paid for by property owners, but are constructed by, or on behalf of the city, and are subject to statutory bid limits and prevailing wages.

### Are LIDs/ULIDs complicated and do they require a cast of thousands?

- ▶ Participants in the LID process can include:
  - Property owners and the general public
  - Public works staff
  - Finance department staff
  - City Clerk
  - Mayor
  - Council
  - City Attorney,
  - Investment bankers
  - Underwriters
  - Financial advisors
  - Engineers/Architects
  - Real estate appraisers
  - Bond counsel

### Are LIDs/ULIDs complicated and do they require a cast of thousands?

- ▶ You will need one person designated as the LID Administrator.
  - The LID Administrator can certainly have other duties, but should not be overloaded.
  - Training is important. (MRSC can help)
  - Computer skills are essential, particularly in electronic spreadsheets and word processing.
  - Superhuman powers are useful, as leaping over tall buildings to escape irate property owners may be necessary.

### LIDs, A to Z

- ▶ Pre-Formation
- ▶ Formation Public Hearing
  - Should the LID be formed?
- ▶ Formation Ordinance
- ▶ Protest and/or Appeal Period
- ▶ Project Construction
- ▶ Assessment Roll Hearing
  - Are the assessments statutorily fair?
- ▶ Confirmation of Assessments
- ▶ Appeal Period
- ▶ Assessment Roll is Posted

### How Are LIDs Formed?

- ▶ Two distinct methods of forming LIDs:
  - petition method which allows property owners to file a petition to initiate an LID
  - resolution of intention method which allows the city council to initiate an LID
- ▶ Both require approval by property owners AND the City Council

### How Is an LID Formed by the Petition Method?

- ▶ The petition method permits property owners to initiate the formation of an LID.
- ▶ A formal petition executed by owners of property aggregating a majority of the area within the proposed district is submitted to the legislative body.
- ▶ City staff prepares preliminary cost estimates and other materials, including potential assessment methods.
- ▶ Prepare preliminary assessment map and assessment roll.



### How Is an LID Formed by the Petition Method?

- ▶ The legislative body then establishes a date for a public hearing.
- ▶ Subsequent procedures are the same as for the resolution process.

### How Is an LID Formed by the Resolution Method?

- ▶ General procedures to form an LID :
  - Determine the extent of property owner support through a postcard survey, informal meetings or informal petition.
  - If sufficient support exists, hold more informal meetings to present the extent of the project, estimated costs, and estimated total assessments.
  - Prepare preliminary assessment map and assessment roll.
  - Prepare a resolution declaring the intention of the legislative body to order the improvement, and setting a date for a formation hearing of the proposed LID.

### How Are LIDs Formed?

Formation Public Hearing (both methods)

- Mail notice at least 15 days prior to the date fixed for the hearing to all benefited (or assessed) property owners. (3-4 weeks is normally provided.)
- Publish resolution for two consecutive weeks in the official newspaper, with the first publication at least 15 days prior to the hearing date.
- City attorney prepares an ordinance forming the LID, which should be reviewed by bond counsel.

### How Are LIDs Formed?

Formation Public Hearing

- ▶ Hold a public hearing to:
  - consider necessity, location, scope, design and cost of improvements.
  - consider boundaries of the LID.
  - city's contribution to the cost of the improvements.
  - amount to be assessed compared to total special benefits.
- ▶ Testimony from affected property owners regarding the preceding items.
- ▶ Arguments concerning assessments against individual properties, whether as to their validity or amount, can only be raised at the subsequent hearing on the final assessment roll.
- ▶ Pass ordinance creating LID

### Appeal Period- Petition Method

- ▶ After passage of the ordinance, there is a 30-day appeal period, during which any property owner who has filed a timely written protest before the formation hearing may appeal the formation of an LID to Superior Court.
- ▶ An appeal does not automatically stop the LID process. The issues raised in the appeal should be carefully reviewed with the city attorney and bond counsel, however.

### Protest Calculation - Resolution Method

- ▶ Calculate protest percentage, meaning percentage of assessment represented by those property owners who filed written protests within a 30-day protest period after an LID initiated by the resolution method is created by ordinance.
  - a 60 percent protest level divests the municipality of its power to proceed with the LID improvements.
  - the LID is officially formed after the 30 day protest period if the protest percentage is less than 60% and is politically acceptable.

### How Are LIDs Formed?

- ▶ Within 15 days after the legislative body has adopted the ordinance creating the LID, the LID administrator files with the city treasurer:
  - title of the improvements,
  - LID number
  - map showing the boundaries of the district (preliminary assessment roll map),
  - preliminary assessment roll showing the lots, tracts, or parcels of land to be assessed.
- ▶ The treasurer posts the preliminary assessment roll against the properties

### LID Assessment Methods

- ▶ Statutes describe one or two specific methods of assessing benefited properties, but also allow the municipality to choose any other method which meets the basic criteria.
- ▶ Two main assessment methods –
  - mathematical
  - special benefit analysis

### LID Assessment Methods

- ▶ Mathematical - relatively inexpensive, easier to explain to property owners
  - front-foot (per lineal foot of property street frontage)
  - area (per square foot of property)
  - zone and termini - described in RCW 35.44.030 and .040
  - unit (per lot or parcel)
- ▶ It is possible to use different types of mathematical assessment within one district.

### LID Assessment Methods

- ▶ Special benefit analysis – generally the safest, but relatively expensive
  - certified appraiser calculates the value of each parcel with and without the infrastructure improvement project.
  - the difference between those two values is the special benefit.
  - the portion of project costs assignable to the LID is then divided by the total of all special benefits.
  - this ratio is then applied to the special benefit of each parcel to determine the assessment for each parcel.

### LID Assessment Methods

- ▶ Example:
  - Say total project cost = \$500,000
  - City share is \$100,000
  - Amount to be assessed against properties = \$400,000
  - Total special benefit = \$1,600,000
  - Ratio is \$400K divided by \$1,600K = 0.25

| Property | Special Benefit to Property | Ratio | Assessment |
|----------|-----------------------------|-------|------------|
| A        | \$50,000                    | 0.25  | \$12,500   |
| B        | \$24,000                    | 0.25  | \$6,000    |
| C        | \$10,000                    | 0.25  | \$2,500    |
| D        | \$20,000                    | 0.25  | \$5,000    |
| E        | \$16,000                    | 0.25  | \$4,000    |

### LID Assessments are Subject to Strict Criteria

- ▶ Statutes specify that the assessment per parcel must not exceed the special benefit of the improvement to that parcel, which is defined as the difference between the fair market value of the property before and after the local improvement project.
- ▶ In addition, the assessments must be proportionate to one another.

### LID Assessments are Subject to Strict Criteria

- ▶ A corollary to these principles is that property not benefited by the improvements may not be assessed.
- ▶ No matter what assessment method is used - per parcel, front foot, area, zone termini, traffic volumes, special benefit appraisal, etc.. - the courts will be concerned only with these criteria.

### LID Administration

- ▶ A Preliminary Design Report and Environmental Impact Statement should be completed prior to LID formation, unless the project is relatively simple and environmentally benign.
- ▶ Costs estimates and estimates of non-LID funding should be as accurate as possible prior to LID formation also.
- ▶ Following the protest and appeal periods, the following occur:
  - design and permitting
  - bidding and award
  - construction contract) administration
  - construction contract closeout

### LID Administration

- ▶ Interim financing, in the form of bond anticipation notes (BANs), interfund loans or warrants, as stated in the formation ordinance, must be arranged.
- ▶ Interim financing costs must not be overlooked when computing estimated project costs.
- ▶ During construction, informal meetings or mailings to each LID participant at least monthly will keep your public relations star shining bright.
- ▶ Be sure to include financial information, good or bad.

### LID Closeout

- ▶ The LID closeout process begins when construction is completed or almost so and total costs can be accurately estimated.
- ▶ Final costs to be assessed to the properties should be based as nearly as possible on actual costs. Since the costs of closing the LID are included in the final assessment, it is necessary to make some estimates regarding the final financing costs, legal fees and administrative costs.
- ▶ Grant funds and contributions from the city or other sources must be deducted from the total project costs to arrive at the amount to be assessed to property owners.

### LID Closeout

- ▶ Once the final LID share of costs has been ascertained, this amount is distributed in a manner similar to the calculation of the estimated assessments on the preliminary assessment roll.
- ▶ If a special benefit analysis method of distributing costs for the final assessment roll is used, this study will need to be completed well ahead of the time to prepare the final rolls since the special benefit analysis can be a lengthy and very detailed process.

### LID Closeout

- ▶ The LID administrator should arrange meetings for the appraiser with small groups of property owners to explain how the special benefit process works.
- ▶ These meetings should occur a month or more before the final assessment roll confirmation hearing to allow property owner concerns to be properly addressed.



### LID Closeout

- ▶ Unlike the preliminary assessment roll where cities use the county assessor's records, the ownerships for the final assessment roll are determined from the county treasurer's records.
- ▶ In many counties, the assessor and treasurer share a common database, so that the information is identical.
- ▶ It is a good idea to request a letter to that effect from the assessor or treasurer for the LID files.

### Final Assessment Roll and Hearing

- ▶ The final assessment roll is filed with the city clerk.
- ▶ A final assessment roll hearing notice, is to be mailed to property owners whose names appear on the final roll at least 15 days prior to the date set for the assessment roll hearing.

### Final Assessment Roll and Hearing

- ▶ This notice must state that objections must be made in writing and filed with the clerk on or before the hearing date
- ▶ And that the legislative body will consider the objections and correct or revise the roll as needed and vote on an ordinance confirming the roll.

### Final Assessment Roll and Hearing

- ▶ This notice to be published at least once a week for two consecutive weeks in the official newspaper. The last publication must be at least 15 days before the date fixed for the hearing.
- ▶ The assessment roll confirmation hearing should be recorded by a court reporter or continuous video in addition to a tape recording.

### Final Assessment Roll and Hearing

- ▶ The final assessment roll hearing should be conducted with possible litigation in mind.
- ▶ In the final assessment roll hearing, the city council acts as a judge, or - more correctly - a board of equalization, to consider evidence presented by both staff and property owner as to the correctness of the assessment for each parcel.

### Final Assessment Roll and Hearing

- ▶ Formal rules of quasi-judicial procedure must be established and followed
- ▶ At the assessment roll confirmation hearing, the LID administrator reports final costs and the share to be paid by the city and by LID assessments
- ▶ He/she also reports on the procedural steps, stating for the record that they were proper and in conformance with LID statutes.

### Final Assessment Roll and Hearing

- ▶ Testimony protesting the assessment roll should be permitted only if a property owner has filed a written protest prior to the scheduled hearing time.
- ▶ A property owner's appropriate protest is to question the amount of benefit that the property will receive from the improvement.
- ▶ Such testimony, must be countered by an expert opinion from the City's appraiser substantiating the benefits of the improvement to that property, if true.

### Final Assessment Roll and Hearing

- ▶ The legislative body has authority to revise or amend the final roll as it sees fit.
- ▶ Downward adjustment to any of the property assessments will require additional money from another source to make up for the reduced assessment.
- ▶ The difference could be made up from public funds;
- ▶ Or the difference could be made up by re-assessing the remaining property owners in the district which then requires a new hearing and additional interest and notification costs.

### Final Assessment Roll and Hearing

- ▶ The assessment roll is approved by the majority of the legislative body (by ordinance) confirming the assessment roll.
- ▶ As with the formation ordinance, the assessment roll ordinance should be prepared or approved by bond counsel.

### Post Assessment Roll Hearing Actions and Appeals

- ▶ After the final assessment roll is confirmed by ordinance, the roll is transmitted to the city treasurer for collection.
- ▶ On the effective date of the confirmation ordinance, a 10-day appeal period begins.
- ▶ During this period, only those parties who have filed timely written objections to the final roll may appeal to Superior Court.
- ▶ When the appeal period is over, the treasurer will publish and mail notice that the assessment roll is filed for collection.
- ▶ The notice states that the property owners have an opportunity to pay all or part of their assessments without interest within a thirty (30) prepay period.

### Post Assessment Roll Hearing Actions and Appeals

- ▶ Long-term LID bonds are sold after the prepay period.
- ▶ An underwriter purchases the bonds from the municipality.
- ▶ If assessments are not paid in advance, a property owner pays an annual installment over the life of the LID, typically 7-15 years.

